

## REMARKS

The Office Action mailed August 29, 2007 has been carefully reviewed and these remarks are responsive thereto. Claims 45 and 85 have been amended. Claims 1-44, 46, 50-76 and 78 have been canceled. Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

Applicants thank the Examiner for the courtesies extended to Mr. Gregory Cohan in the telephonic interview conducted on November 1, 2007.

### SECTION 103

#### Claims 45, 47-48, 77, and 79-84

Claims 45, 47-48, 77, and 79-84 have been rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 3,316,576 to Urbush ("Urbush") in view of U.S. Patent No. 5,839,148 to Volpenheim ("Volpenheim"). This rejection is respectfully traversed.

The combination of Urbush and Volpenheim fails to disclose or make obvious a toothbrush with a discontinuity in the form of an opening in the head positioned between an inner end of each of at least one of said plurality of third cleaning elements and a plane defined by the second surface, with the discontinuity being defined **only** by the head and the inner end of at least one of said plurality of third cleaning elements, as required by independent claim 1.

The discontinuity in the head of Volpenheim is defined by different elements of the brush of Volpenheim, since rocking portion 12 can move, as illustrated in Attachment A provided with the Office Action. In its static condition, seen in Fig. 1, the discontinuity is defined by the head and the perimeter edge of rocking portion 12. In the condition shown in Attachment A, a portion of the discontinuity is defined by the head and the inner end of some cleaning elements (the portion of the discontinuity pointed out by the Examiner in Attachment A), a portion of the discontinuity is defined by the head and the outer end of some cleaning elements (the area below rocking portion 12 in Attachment A), and a portion of the discontinuity is defined by the head and the perimeter edge of rocking portion 12 (the area at the sides of rocking portion 12- not visible in Attachment A, but seen in Fig. 1).

Consequently, it is clear that the discontinuity of Volpenheim is not defined only by the head and the inner end of at least one of said plurality of third cleaning elements, as required by independent claim 1.

Accordingly the rejection is improper and should be withdrawn.

**Claims 85-87**

Claims 85-87 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Urbush in view of Volpenheim and U.S. Patent No. 5,896,614 to Flewitt ("Flewitt"). Flewitt is cited as disclosing elastomeric wipers. This rejection is respectfully traversed.

The combination of Urbush, Volpenheim and Flewitt fails disclose or make obvious a toothbrush with movable elastomeric wipers being movable relative to a head within a discontinuity in the form of an opening in the head positioned between an inner end of each movable elastomeric wiper and a plane defined by the second surface, with the discontinuity being defined **only** by the head and the inner end of each of the movable elastomeric wipers, as required by independent claim 85.

As noted above, the discontinuity of Volpenheim is defined by a combination of the head, the inner and outer ends of rocking portion 12, and the side edge of rocking portion 12.

Accordingly the rejection is improper and should be withdrawn.

**Claim 49**

Claim 49 has been rejected under 35 U.S.C. § 103(a) over Urbush in view of Volpenheim, U.S. Patent No. 5,813,079 to Halm ("Halm '079"), and U.S. Patent No. 5,951,158 to Halm ("Halm '158"). This rejection is respectfully traversed.

Halm '079 and '158 fail to overcome the deficiencies of Urbush and Volpenheim discussed above since they do not disclose or make obvious a toothbrush with a discontinuity in the form of an opening in the head positioned between an inner end of each of at least one of said plurality of third cleaning elements and a plane defined by the second surface to allow for movement of the at least one of said plurality of third cleaning elements relative to the head, with the discontinuity being defined **only** by the head and the inner end of at least one of said plurality of third cleaning elements, as required by independent claim 1, from which claim 49 depends.

Accordingly the rejection is improper and should be withdrawn.

CONCLUSION

It is respectfully submitted that this application is in condition for allowance. If any additional fees are required or if an overpayment has been made, the Commissioner is authorized to charge or credit Deposit Account No. 03-2455.

Date: 11/02/07

Respectfully submitted,  
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